

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 1:05-CR-65

Plaintiff,

Hon. Richard Alan Enslen

v.

RONALD HEMPHILL,

Defendant.

ORDER

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This matter is before the Court on Defendant Ronald Hemphill's Motion to Proceed *in Forma Pauperis* on Appeal, to Appoint Appellate Counsel, and to Allow Defendant's Counsel to Withdraw. Defendant has attached a completed Criminal Justice Act Form 23 to the Motion, evidencing his indigency. Therefore, the Court will grant Defendant's request to proceed *in forma pauperis* on appeal.

Turning to the question of who will represent Defendant on appeal, Defendant's counsel seeks to withdraw as his appellate attorney since Defendant is indigent, owes \$5,400 in outstanding legal fees, and has four children who depend on him for support. None of these reasons are sufficient cause to permit withdrawal on appeal, *see* 6 CIR. SUPP. PRO. R. 101(f), and the Court will deny Defendant's counsel's request. Defendant's current counsel shall represent Defendant on appeal, and shall consider himself appointed in that capacity within the meaning of the Criminal Justice Act. *See* 18 U.S.C. 3001 *et seq.* Accordingly, Defendant's counsel is entitled to bill for his time spent working on Defendant's appeal under the Act. *Id.* at 3006A(d).

THEREFORE, IT IS HEREBY ORDERED that Defendant's Motion to Proceed *in Forma Pauperis* on Appeal, to Appoint Appellate Counsel, and to Allow Defendant's Counsel to Withdraw

(Dkt. No. 41) is **GRANTED IN PART** and **DENIED IN PART**. The Motion is **GRANTED** in that Defendant sought to proceed on appeal *in forma pauperis* and to appoint appellate counsel. The Motion is **DENIED** in that Defendant's counsel sought to withdraw.

DATED in Kalamazoo, MI:
February 22, 2006

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE